

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

LEAGUE OF UNITED LATIN AMERICAN
CITIZENS, *et al.*,

Plaintiffs,

EDDIE BERNICE JOHNSON, SHEILA
JACKSON-LEE, ALEXANDER GREEN, AND
JASMINE CROCKETT,

Plaintiff-Intervenors,

V.

GREG ABBOTT, *et al.*,

Defendants.

Case No. 3:21-cv-00259
[Lead Case]

UNITED STATES OF AMERICA,

Plaintiff,

V.

STATE OF TEXAS, *et al.*,

Defendants.

Case No. 3:21-cv-00299
[Consolidated Case]

**LEGISLATORS' UNOPPOSED MOTION FOR EXTENSION OF TIME
TO FILE RESPONSES TO MOTIONS TO COMPEL**

The LULAC Plaintiffs have filed three motions to compel document production for subpoenas issued to various legislators and legislative staff. ECF 447, 540, 582. The United States similarly moved to enforce a document subpoena issued to Representative Mile Schofield. ECF 532. In response to these four motions—and in light of the Fifth Circuit’s order staying this Court’s July 25, 2022 order enforcing the United States’ subpoenas (ECF 467), *see Order, LULAC v. Patrick*, No.

22-50662 (5th Cir. July 27, 2022)—legislators and legislative staff filed four unopposed motions to hold in abeyance the briefing schedules. *See* ECF 483, 535, 547, 584. This Court granted the request for abeyance in each instance, issuing its first such order on July 29 (ECF 491), followed by text-only docket entries on August 15, August 17, and September 19.

All four motions to compel share substantial factual and legal issues, particularly with regard to legislative privilege. The associated briefing schedules would be triggered by the earlier of two events: 1) the Fifth Circuit’s order lifting the stay of this Court’s order (ECF 467), or 2) the Fifth Circuit’s ruling on the merits in *LULAC Texas v. Hughes*, No. 22-50435 (5th Cir.). However, the deadlines following these triggering events differ, ranging from two days after the relevant event occurs (ECF 483) to seven days after its occurrence (ECF 584).

To facilitate a more efficient process, the legislators and legislative staff have now reached an agreement with the LULAC Plaintiffs and the United States to set a uniform briefing schedule for all four motions. Under this agreement, the responses of the subpoenaed legislators and staff would be due fourteen days after the earlier of: (i) the Fifth Circuit’s order lifting the stay of this Court’s order (ECF 467), or (ii) the Fifth Circuit issuing its opinion on the merits in *LULAC Texas v. Hughes*, No. 22-50435 (5th Cir.). The plaintiffs’ replies would continue to be due seven days after the responses are filed.

This alteration of the briefing schedule would better allow the subpoenaed legislators and staff to incorporate the Fifth Circuit’s guidance on legislative privilege into their responses and facilitate review of the relevant documents accordingly. Depending on that guidance, further review could in turn lead to production of some documents, thus narrowing the scope of any remaining disagreement. Given that the trial date has been vacated in this litigation, ECF 569, this change would not prejudice any party.

For the foregoing reasons, the subpoenaed legislators and staff respectfully request that this Court alter the briefing schedule for each motion to compel in accordance with the agreed upon response dates described herein.

Date: November 21, 2022

Respectfully submitted.

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CERTIFICATE OF CONFERENCE

I certify I conferred with counsel for the LULAC Plaintiffs and for the United States regarding the subject of this motion. Counsel indicated they do not oppose the instant motion.

/s/ J. Aaron Barnes
J. AARON BARNES

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on November 21, 2022, and that all counsel of record were served by CM/ECF.

/s/ J. Aaron Barnes
J. AARON BARNES